



Town of Lake Park

SPECIAL MAGISTRATE HEARING

JULY 12, 2007

10:00 a.m.

Town Hall Commission Chambers
535 Park Avenue, Lake Park, FL 33403

REQUEST FOR REHEARING AGENDA

PLEASE TAKE NOTICE AND BE ADVISED: If any interested person desires to appeal any decision of the Code Compliance Board with respect to any matter, such person shall appear in person at the hearing, or by a duly authorized agent, at the time and place specified in the notice of the hearing, and shall be responsible for the cost of any transcript of the proceedings. The record of the hearing shall include the testimony and evidence upon which the appeal is to be based. Persons with disabilities requiring accommodations in order to participate in the hearing should contact the Town Clerk's Office by calling 888-334-4444, ext. 4810, at least 48 hours in advance to request accommodations.

REQUEST FOR REHEARING

Case No. 05-00255

RESPONDENT: Luneda Berger

LOCATION: 439 Cypress Drive

PCN: 36-43-42-20-01-021-0170

LEGAL: Kelsey City Lts 31 to 33 Inc Blk 65

Code Section Violation: 27-45 a.b.c. No self-closing/latching pool gate/fencing barrier

Code Compliance Board Hearing: April 21, 2005

Ordered Date for Compliance: May 9, 2005

Affidavit of Non-Compliance Issued: May 24, 2005

Daily Fine Amount: \$250.00 per day

Affidavit of Compliance: May 1, 2007

\$180,250.00 - 721 days x \$250.00 per day

18,025.00 - 10% Penalty

150.50 - Administrative Costs Due for April 21, 2005 Hearing

120.00 - Administrative Costs Due for June 7, 2007 Hearing

\$198,545.50 TOTAL DUE

**ABATEMENT HEARING HELD: JUNE 7, 2007, RESULTING IN AN
ORDER GRANTING FINE REDUCTION TO \$18,245.50, INCLUDING COSTS**

FUTURE CODE COMPLIANCE MEETINGS:

CODE COMPLIANCE BOARD; JULY 19, 2007; 7:00 P.M.

SPECIAL MAGISTRATE HEARING; AUGUST 2, 2007; 10:00 A.M.

TOWN OF LAKE PARK, FLORIDA
CODE ENFORCEMENT DIVISION

Case No. 05-00255

TOWN OF LAKE PARK, FLORIDA

Petitioner,
v. LUNEDA BERGER

PCN: 36-43-42-20-01-021-0170

Respondent(s).

ORDER GRANTING/DENYING FINE REDUCTION REQUEST

THIS CAUSE, having come before the Special Magistrate for the Town of Lake Park, Florida on June 7, 2007, on the Respondent's Request for a Reduction of Fine, and the Special Magistrate having heard the testimony of the parties, and having considered the evidence presented by the parties; and having been fully apprised of the circumstances, does find as follows:

FINDINGS OF FACT

1. The Respondent(s), are the owners or occupants of the real property located at: **439 Cypress Drive, Lake Park, FL. ("Property")**, and which is legally described as follows: **KELSEY CITY LTS 31 TO 33 INC BLK 65.**
2. The Special Magistrate entered an Order finding the Respondent(s) in violation of **Section(s) 27-45 a.b.c.** of the Town Code of Ordinances and/or **Section(s)** of the Florida Building Code based upon the following conditions on the Property: No self-closing /latching pool gate/fencing barrier.
3. The Respondent(s) was given until 05/09/2005, to come into compliance, failing which a fine of **\$250.00 per day** was assessed against the Respondent. **Administrative costs in the amount of \$150.50 and \$120.00 were assessed** and those costs ☐ were paid on _____, 200__, OR ☐ **have not been paid as of the date of this Order.**
4. The Respondent(s) has completed the Town application form for a reduction in the fine, and has presented his/her justification for this request in a statement contained in the application.

CONCLUSIONS OF LAW

Based upon the gravity of the violation(s), the actions taken by the Respondent(s) to correct the violation(s), any previous violations committed by the Respondent(s), the application and accompanying documentation submitted under oath by the Respondent(s), the staff report and recommendations of staff, and the testimony of staff and other evidence presented at the hearing, **IT IS HEREBY ORDERED AND ADJUDGED:**

☒ **A. THE FINE REDUCTION REQUEST IS HEREBY GRANTED.** The original fine in the amount of \$198,545.50 is found to be excessive, and the fine is hereby reduced to the amount of \$18,245.50 to be paid on or before failing which the reduced fine shall become null and void and the fine shall revert to the full amount of the original fine of \$198,545.50, payable immediately. *including costs*

☐ **B. THE FINE REDUCTION REQUEST IS HEREBY DENIED.** The original fine was appropriately levied; the fine amount was not excessive, and there were no legitimate mitigating factors or justifications presented to warrant any reduction in the fine.

DONE AND ORDERED this 7th day of June, 2007.


Special Magistrate

Copies furnished to the Parties, by NR

* 6 mos. or as otherwise agreed to
by Respondent and Town.